IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

WP(C).No. 11301 of 2005(U)

PETITIONER:

K.CHANDRAN BALAN,
PANAMPILLYKATTIL HOUSE,
PUTHENVELIKARA, NORTH PARUR,
ERNAKULAM DIST.

BY ADV. SRI.B.RAMACHANDRAN
SMT.JOLIMA GEORGE

RESPONDENTS:

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1. THE TAHSILDAR,
PARUR (ASSESSING AUTHORITY UNDER BUILDING
TAX ACT).

2. THE REVENUE DIVISIONAL OFFICER,
FORT KOCHI, (APPELLATE AUTHORITY UNDER
BUILDING TAX ACT).

3. THE VILLAGE OFFICER,
PUTHENVELIKARA VILLAGE, NORTH PARUR.

*4. THE STATE OF KERALA,
REPRESENTED BY the SECRETARY TO GOVERNMENT,
DEPARTMENT OF REVENUE, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

(*IMPLEADED AS ADDITIONAL 4TH RESPONDENT AS PER ORDER DATED 04/04/2005 IN THE WRIT PETITION)

BY ADV. SHRI.PRADEEP, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/11/2007, THE COURT ON 16/11/2007 DELIVERED THE FOLLOWING:

WP(C) No. 11301/2005

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF NOTICE OF DEMAND DATED 27/07/2004.

P2 : COPY OF ORDERS DATED 16/03/2005 OF THE 2ND RESPONDENT.

P3 : COPY OF DEMAND NOTICE DATED 31/03/2005.

P4 : COPY OF RECEIPT DATED 23/09/2004.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 11301 of 2005

Dated, this the 16th day of November, 2007

J U D G M E N T

Petitioner is challenging revised building tax assessment, which was issued for the additional plinth area of two buildings, which were previously assessed separately. According to the petitioner since the assessment was completed without giving opportunity to the petitioner to file objection, the order is arbitrary and in violation of principles of natural justice. Learned Government Pleader submitted that though the buildings were originally assessed separately, the audit party pointed out a Government Order requiring combined assessment of buildings, which are integrally connected. The case of the 1st respondent is that one building is an auditorium and the other is a kitchen and dining hall and both are used for same purposes, namely hosting marriage parties. The challenge against assessment on the ground of limitation is not tenable because original assessment was completed on 04/08/2001 and revised order is issued on 27/07/2004 within the period of limitation provided under Section 15(1) of the Building Tax Act. However, I feel having regard to the factual dispute, the matter requires detailed consideration by the 1st

respondent. This writ petition is, accordingly, disposed of directing the 1st respondent to permit the petitioner to file return, hear the petitioner and pass orders after physically verifying whether buildings are combined and whether there is passage provided between two buildings and whether buildings are integrally used for same purpose and common facilities are available to the guests to use the same. First respondent is directed to pass revised orders within a period of three months from now. As and when revised orders are issued, the same shall substitute the impugned orders. Petitioner will produce copy of the judgment, file objection and documents without requirement of any notice and appear on the posting date for hearing before the 1st respondent.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg